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PLANO, TX 75024

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**DEC 23 2009**

**OFFICE OF PETITIONS**

In re Patent of Speiser et al.	:	
Patent No. 7,103,041	:	
Issue Date: September 5, 2006	:	Letter Regarding
Application No. 09/610,116	:	Patent Term Adjustment
Filing Date: June 30, 2000	:	
Attorney Docket No. P63080-USA	:	

This letter is in response to the "37 CFR 1.322 & 37 CFR 1.323 Request for Certificate of Correction for USPTO and/or Applicant Mistake" filed November 20, 2008. Patentee's Request is being treated in part as a letter regarding patent term adjustment filed pursuant to patentee's duty of good faith and candor to the Office.<sup>1</sup>

The request for review of the patent term adjustment is **DISMISSED**.

On December 12, 2005, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) ("Determination") in the above-identified application. The Notice stated the patent term adjustment to date is 702 days.

On September 5, 2006, the application matured into United States Patent No. 7,103,041 with a revised patent term adjustment of 997 days.

Patentees request a certificate of correction to replace the "997" days of patent term adjustment on the patent with "702" days of patent term adjustment. Patentees cite the third page of the Notice of Allowance in support of the assertion the 997 days of adjustment should be 702 days.

The amount of patent term adjustment indicated in the Notice of Allowance is not necessarily the final amount of patent term adjustment. As stated in MPEP 2735,

Since the Office is obligated to provide a determination of patent term adjustment under 35 U.S.C. 154(b) in the notice of allowance (i.e. before the actual patent issue date), the Office must project (or estimate) the actual patent issue date and base its patent term adjustment determination on that projection. Additionally, there are a number of papers which if submitted by an applicant after the mailing of the notice of allowance will result

<sup>1</sup> See Comment 43, *Changes to Implement Patent Term Adjustment Under Twenty-Year Patent Term; Final Rule*, 65 Fed. Reg. 56,366 (September 18, 2000).

in a reduction of any patent term adjustment , and there may be Office delays occurring after mailing the notice of allowance in an increase in the amount of patent term adjustment.

The Office has reviewed all the patent term adjustment calculations, determined the Office acted properly when it increased the patent term adjustment amount listed in the Notice of Allowance, and determined issuance of a Certificate of Correction lowering the amount of patent term adjustment appearing on the patent would be inappropriate.

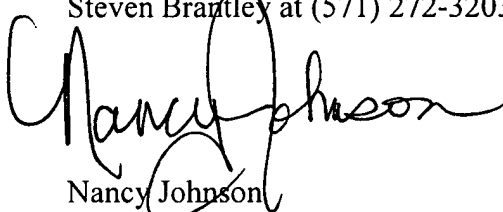
A copy of the PALM calculations for this application is enclosed.

The revised Patent Term Adjustment remains nine hundred ninety-seven (997) days.

As the Request was not submitted in order to increase the amount of patent term adjustment listed on the patent, the Office will not assess the \$200.00 fee under 37 CFR 1.18(e). The Office thanks patentee for their good faith and candor in bringing this to the attention of the Office.

The application is being forwarded to the Certificates of Correction Branch for consideration of the issues remaining in the request for Certificate of Correction filed November 20, 2008. No change to the patent term adjustment will be made.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203.

A handwritten signature in black ink, appearing to read "Nancy Johnson", with a large, stylized initial "N" and a long, sweeping horizontal stroke extending to the right.

Nancy Johnson  
Senior Petitions Attorney  
Office of Petitions

Enclosure: Copy of PALM Screen

Day : Tuesday  
Date: 12/22/2009

# PALM INTRANET

Time: 16:26:26

## PTA Calculations for Application: 09/610116

Application Filing Date:	06/30/2000	PTO Delay (PTO):	1163
Issue Date of Patent:	09/05/2006	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	166
Post-Issue Petitions:	0	Total PTA (days):	997
PTO Delay Adjustment:	0		

## File Contents History

Number	Date	Contents Description	PTO	APPL	START
57.5	08/16/2006	PTA 36 MONTHS	370		
57	09/05/2006	PATENT ISSUE DATE USED IN PTA CALCULATION	50		50
56	07/21/2006	EXPORT TO FINAL DATA CAPTURE			
55	07/19/2006	FINISHED INITIAL DATA CAPTURE			
54	07/20/2006	DISPATCH TO FDC			
53	07/20/2006	DISPATCH TO FDC			
52	03/23/2006	APPLICATION IS CONSIDERED READY FOR ISSUE			
51	01/06/2006	WORKFLOW - DRAWINGS FINISHED		0	
50	03/17/2006	ISSUE FEE PAYMENT VERIFIED		5	44
49	03/21/2006	CASE DOCKETED TO EXAMINER IN GAU			
48	03/17/2006	ISSUE FEE PAYMENT RECEIVED			
47	01/06/2006	WORKFLOW - DRAWINGS FINISHED		0	
46	01/06/2006	WORKFLOW - DRAWINGS FINISHED		120	
45	12/19/2005	EXPORT TO INITIAL DATA CAPTURE			
44	12/12/2005	MAIL NOTICE OF ALLOWANCE			
43	12/12/2005	MAIL FORMAL DRAWINGS REQUIRED			
42	12/12/2005	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
41	12/12/2005	MAIL EXAMINER'S AMENDMENT			
40	12/09/2005	ISSUE REVISION COMPLETED			
39	12/09/2005	FORMAL DRAWINGS REQUIRED			
38	12/09/2005	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
37	12/09/2005	EXAMINER'S AMENDMENT COMMUNICATION			
36	12/09/2005	NOTICE OF ALLOWABILITY			

35	12/06/2005	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
34	08/22/2005	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
33	08/29/2005	DATE FORWARDED TO EXAMINER			
32	08/22/2005	RESPONSE AFTER NON-FINAL ACTION		5	29
31	08/22/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
30	08/09/2005	CASE DOCKETED TO EXAMINER IN GAU			
29	05/17/2005	MAIL NON-FINAL REJECTION	17		26
28	05/16/2005	NON-FINAL REJECTION			
27	03/22/2005	DATE FORWARDED TO EXAMINER			
26	12/30/2004	RESPONSE AFTER NON-FINAL ACTION		2	24
25	12/30/2004	WORKFLOW INCOMING AMENDMENT IFW			
24	09/28/2004	MAIL NON-FINAL REJECTION			
23	09/27/2004	NON-FINAL REJECTION			
22	07/30/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
21	07/30/2004	DATE FORWARDED TO EXAMINER			
20	06/14/2004	RESPONSE AFTER NON-FINAL ACTION		32	15
19	06/14/2004	REQUEST FOR EXTENSION OF TIME - GRANTED			
18	11/28/2000	SUBSTITUTE SPECIFICATION FILED			
17	11/27/2000	OATH OR DECLARATION FILED (INCLUDING SUPPLEMENTAL)			
16	06/14/2004	WORKFLOW INCOMING AMENDMENT IFW			
15	02/13/2004	MAIL NON-FINAL REJECTION			
14	02/09/2004	NON-FINAL REJECTION			
13	12/05/2003	DATE FORWARDED TO EXAMINER			
12	11/28/2003	RESPONSE AFTER NON-FINAL ACTION		2	11
11	08/26/2003	MAIL NON-FINAL REJECTION	726		-1
10	08/25/2003	NON-FINAL REJECTION			
9	08/07/2003	CASE DOCKETED TO EXAMINER IN GAU			
8	03/11/2002	CASE DOCKETED TO EXAMINER IN GAU			
7	01/10/2001	CASE DOCKETED TO EXAMINER IN GAU			
6	12/06/2000	APPLICATION DISPATCHED FROM OIPE			
5	12/06/2000	APPLICATION IS NOW COMPLETE			
4	09/05/2000	NOTICE MAILED--APPLICATION INCOMPLETE-- FILING DATE ASSIGNED			

3	09/05/2000	CORRESPONDENCE ADDRESS CHANGE			
2	07/25/2000	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	06/30/2000	INITIAL EXAM TEAM NN			

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**Search**

**EXPLANATION OF PTA CALCULATION**

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